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SUBJECT: KYRGYZSTAN: 2009-2010 INTERNATIONAL NARCOTICS
CONTROL STRATEGY REPORT (INCSR), PART II, FINANCIAL CRIMES
AND MONEY LAUNDERING

REF: STATE 117247

11. Following is Embassy Bishkek's submission for the
2009-2010 International Narcotics Control Strategy Report
(INCSR), Part II, Financial Crimes and Money Laundering.

12. Begin Text:

Kyrgyz Republic

The Kyrgyz Republic is not a regional financial center. The Kyrgyz Republic adopted a new anti-money laundering statute in 2006 and has made significant amendments to fill gaps that existed in the previous law on enforcement and implementation. Key issues that remain to be resolved are including auto dealers and real estate developers in the list of entities required to report large dollar transactions. The law enforcement authorities continue to work on necessary resource and structural modifications and are pursuing anti-money laundering and terrorist financing priorities. However, due to the fact that the system is still in its nascent stage, there are no significant results of financial investigations, or criminal prosecutions. Since 2006, there have been nine cases referred to the Financial Police by the Financial Intelligence Unit. Of those, two were investigated and none prosecuted to date.

The Kyrgyz banking system remains comparatively underdeveloped. Like other countries in the region, the Kyrgyz Republic's alternative remittance systems are susceptible to money laundering activity or trade-based fraud. Narcotics trafficking, the smuggling of consumer goods, tax and tariff evasion, and official corruption continue as major sources of illegal proceeds within the Kyrgyz Republic. The lack of political will, inter-agency cooperation, resource constraints, inefficient financial systems, and, of course, corruption, all serve to stifle efforts to effectively combat money laundering and terrorist financing.

Money Laundering/Terrorist Financing primarily occurs through trade-based fraud and bulk cash carriers. The banking system is also at risk for money laundering, as oversight of the banking sector is generally weak, and Kyrgyz law enforcement agencies lack the expertise and resources necessary to effectively monitor and investigate financial irregularities. The Kyrgyz Republic is not considered an offshore financial center, nor does it have a free trade zone.

In 2009, the legislature passed amendments to the 2006 law on "Counteracting Terrorist Financing and Legalization of Proceeds from Crime (Money Laundering)." The law still defines predicate offenses as crimes under the Kyrgyz Criminal Code, and criminalizes income obtained as a result of a criminal action. The statutory threshold amount that triggers mandatory reporting remains \$25,000. The money laundering law also includes secrecy provisions that mandate

civil and criminal liability for disclosure of client and ownership information, as well as for abuse of official position, which safeguards effective reporting. It also requires mandatory reporting of suspicious transactions, in addition to five-year record retention by all Kyrgyz financial institutions.

The money laundering controls are applied equally to all banking and non-banking financial institutions, to include banks, credit institutions, stock brokerages, foreign exchange offices, casinos, and insurance companies. The law mandates that all such entities report threshold amount transactions as well as all suspicious transactions. Recent amendments have expanded the list to include: notaries, tax consultants/auditors, realtors, the state's property agency, trustees, jewelry stores and dealers.

Chapter III of the money laundering law establishes a Financial Intelligence Service, a state body authorized to collect and analyze financial intelligence. The Kyrgyz Financial Intelligence Service collects and analyzes information related to financial transactions; develops and implements measures on improving systems of prevention, detection, and suppression of suspicious transactions; and submits cases to law enforcement, the prosecutor's office, and the court for investigation and prosecution. The Financial Intelligence Service is an administrative entity with no powers of criminal investigation or regulatory responsibilities. While the Financial Intelligence Service continuously offers training, law enforcement agencies generally choose not to attend. The banks, however, avail themselves of training opportunities.

Resources continue to be inadequate, but the Financial Intelligence Service is improving its expertise and knowledge, especially in cooperation with the European Asian Group, the region's Financial Action Task Force (FATF) watchdog organization. One of the two key criticisms of the 2006 anti-money laundering law was addressed in the recent amendments: money laundering is now criminalized, making the anti-money laundering law FATF compliant. However, the reporting threshold amount of \$25,000 remains at what experts say is extraordinarily high.

The newly promulgated amendments address the issue of asset forfeiture. While the proceeds of crime and/or laundered funds can be seized and placed in a state fund, clearer procedural regulations need to be implemented. In addition, procedures for seizing and forfeiting assets derived from criminal activity also need to be clarified. Existing criminal laws do provide for fines and levies against property. Kyrgyz law enforcement and other competent bodies including the Financial Intelligence Service are not adequately empowered to identify and find property subject to confiscation or property suspected of being the proceeds of a crime.

Money Laundering is mainly investigated by the Financial Police of the Kyrgyz Republic; however it may also be investigated by other law enforcement entities, such as the Ministry of the Internal Affairs (MVD) and the Prosecutor General's Office. The concept of examining financial documents or seizing them while executing a search warrant remains a novel idea for prosecutors who know little about employing financial investigation techniques to improve their investigations of predicate crimes. There is no provision under Kyrgyz law to allow for civil forfeiture.

Regarding international cooperation, Chapter IV of the money laundering law does provide for an international exchange of information and legal assistance. The law mandates that the Financial Intelligence Service, in compliance with international treaty obligations, collaborate with foreign counterparts in financial intelligence and terrorist financing matters.

The Kyrgyz Republic, along with Russia, China, Belarus,

Tajikistan, and Kazakhstan, formed the Eurasian Group (EAG) for Counteraction to the Legalization of Illegal Incomes and Terrorism Financing, a FATF-style regional body designed to coordinate technical assistance and analyze trends in money laundering techniques. The EAG has conducted a mutual evaluation and provided a detailed assessment on anti-money laundering and combating terrorist financing in the Kyrgyz Republic.

The Kyrgyz Republic acceded to the United Nations Vienna Convention in 1994, ratified the United Nations Palermo Convention in 2003, and acceded to the United Nations Convention on the Suppression of the Financing of Terrorism of 1999 in 2003. The Kyrgyz Republic is a party to the 1988 United Nations Convention of Narcotics and Psychotropic Substances, the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption.

The Government of the Kyrgyz Republic should continue to strengthen legislation as it relates to money laundering and financial crimes that support terrorist organizations, both within financial institutions and with those activities that circumvent financial institutions. In addition, the Kyrgyz Republic should increase and enhance training in money laundering and terrorist financing investigative techniques.

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